

In the Matter of Merchant Mariner's Document No. Z-799623-D2 and
all other Seaman Documents

Issued to: CARL PIERCE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1358

CARL PIERCE

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 18 November 1958, an Examiner of the United States coast Guard at San Francisco, California, suspended Appellant's seaman documents for six months upon finding him guilty of misconduct. The two specifications found proved allege that while serving as an able seaman on board the United States SS ALMENA under authority of the document above described, on 30 October 1958, Appellant assaulted and battered oiler Tanner by slashing his leg with a knife; on the same date, Appellant assaulted and battered Boatswain Browning by striking him.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and each specification.

The Investigating Officer did not introduce any evidence due to Appellant's pleas of guilty. Appellant made an unsworn statement in which he stated that while he was teasing and arguing with the Boatswain, Appellant had a knife in his hand but did not intend to cut anyone; oiler Tanner was cut accidentally on the leg when he got in the way of the knife; Appellant and the Boatswain grappled until stopped by the Chief Mate; an ambulance was called for oiler Tanner.

On appeal, counsel for Appellant contends that he was acting in self-defense.

APPEARANCE ON APPEAL: Moore, Simon and Layden of Mobile, Alabama, by Otto E. Simon, Esquire, of Counsel.

OPINION

The delay in the taking of this appeal is due to the fact that

although Appellant appeared at the scheduled hearing on 31 October 1958, he was not served with the decision until 16 March 1962.

As stated by the Examiner, a person is responsible for the probable consequences of his reckless conduct. Bodily harm is likely to result when a person is handling a knife during an argument in the presence of other as Appellant was doing. Proof of specific intent to injure is not required in these remedial administrative proceedings. there is nothing in the record to indicate that Appellant acted in self-defense and this contention is inconsistent with Appellants statement at the hearing. Hence, the allegations of assault and battery are support by Appellant's pleas of guilty.

ORDER

The order of the Examiner dated at San Francisco, California, on 18 November 1958, is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 12th day of December 1962.